

## Message Text

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ACTION L-03

INFO OCT-01 ARA-06 ISO-00 SSO-00 NSCE-00 USIE-00 INRE-00

CIAE-00 DODE-00 PM-03 H-02 INR-07 NSAE-00 NSC-05

PA-01 PRS-01 SP-02 SS-15 IO-10 AID-05 /061 W

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FM AMEMBASSY SAN JOSE

TO SECSTATE WASHDC IMMEDIATE 862

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USDEL 020

EO 11652: NA

TAGS: OCON OAS

SUBJ: SAN JOSE CONFERENCE: RIO TREATY - APPROVAL OF ARTICLES 3 AND 6

REF: A. SAN JOSE 3000 (USDEL 15); B. SAN JOSE 3003 (USDEL 16)

C. SAN JOSE 3011 (USDEL 19)

1. SUMMARY: THE GENERAL COMMITTEE APPROVED TEXTS FOR ARTICLES 3 AND 6 OF THE RIO TREATY AT ITS JULY 21 MORNING SESSION. THE U.S. DELEGATION SUPPORTED BOTH PROPOSALS. ON MOST OF THE MORNING'S VOTES PANAMA AND PERU WERE ISOLATED IN OPPOSITION (ABSTAINING). BRAZIL JOINED THESE TWO ON A NUMBER OF VOTES BECAUSE OF STRICT INSTRUCTIONS TO SEEK TO AVOID EVEN MINOR ADJUSTMENTS IN THE PRESENT TREATY. END SUMMARY.

2. AMENDED TEXTS OF ARTICLES 3 AND 6 OF THE TREATY WHICH WERE OVERWHELMINGLY APPROVED THIS MORNING IN THE GENERAL COMMITTEE HAVE BEEN SENT (REF C). ARTICLE 6 WAS CONSIDERED FIRST. AMBASSADOR CASTILLO ARRIOLA OF GUATEMALA PRODUCED A DRAFT WHICH SIMPLIFIED THE TORTUOUS LANGUAGE PROPOSED BY THE SPECIAL COMMITTEE AND ELIMINATED MINOR ANOMALIES WHICH THE U.S. DELEGATION HAD POINTED OUT. IN FACT, CASTILLO'S DRAFT WAS VERY SIMILAR TO A DRAFT CIRCULATED EARLIER BY THE U.S. DELEGATION BUT NOT ACTUALLY INTRODUCED. THE  
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TEXT WAS APPROVED, 20 TO 0, WITH ONLY PERU ABSTAINING.

3. ARTICLE 3 PROVED SOMEWHAT MORE DIFFICULT TO DEAL WITH TACTICALLY. OVER THE WEEKEND, FACIO AGREED TO WITHDRAW THE COSTA RICAN PROPOSAL, WHICH WOULD HAVE ELIMINATED ALL DISTINCTIONS BETWEEN EXTRA- AND INTRA-HEMISPHERIC ATTACK, THOUGH HE APPEARED TO HAVE A BARE MAJORITY IN FAVOR.

4. AMBASSADOR MAILLIARD THEN INTRODUCED AN AMENDMENT TO PARAGRAPH 3 OF THE SPECIAL COMMITTEE DRAFT, TO MAKE CLEAR THAT THE OBLIGATION TO ASSIST IN MEETING AN ATTACK ON ANY PARTY APPLIES REGARDLESS OF WHERE THE ATTACK ORIGINATES. HE NOTED THAT ALL THE SPEAKERS SEEMED TO AGREE THAT SUCH AN OBLIGATION WAS ALREADY EVIDENT IN THE SPECIAL COMMITTEE TEXT, REGARDLESS OF THE ORIGIN OF THE ATTACK; WHY NOT MAKE THE OBLIGATION EXPLICIT AND UNAMBIGUOUS?

5. AT THIS POINT NICARAGUAN FOREIGN MINISTER MONTIEL REINTRODUCED THE COSTA RICAN TEXT AS HIS OWN, DESPITE FACIO'S WITHDRAWAL. SINCE THERE WAS PREVIOUS AGREEMENT OF ALMOST ALL DELEGATIONS TO SEEK CONSENSUS ON THE BASIS OF THE SPECIAL COMMITTEE DRAFT RATHER THAN FORCE THROUGH THE COSTA RICAN PROPOSAL BY A BARE MAJORITY, THIS CAUSED SOME CONFUSION. BUT THE NICARAGUAN PROPOSAL RECEIVED ONLY FIVE VOTES (BRAZIL, CHILE, DOMINICAN REPUBLIC, EL SALVADOR AND NICARAGUA). THE PERUVIAN PROPOSAL DRAWING GREAT DISTINCTIONS BETWEEN ATTACK FROM WITHIN OR OUTSIDE THE HEMISPHERE WAS ALSO DEFEATED IN A SERIES OF LOPSIDED VOTES.

6. THE U.S. PROPOSAL WAS THEN APPROVED 17-0, WITH FOUR ABSTENTIONS (PANAMA, BRAZIL, PERU AND COSTA RICA). (COSTA RICA'S ABSTENTION WAS APPARENTLY THE RESULT OF A COMMUNICATIONS FOULUP SINCE FACIO HAD PREVIOUSLY AGREED TO OUR FORMULA.)

7. ARGENTINA PROPOSED TWO AMENDMENTS TO PARAGRAPH 4 OF ARTICLE 3, BOTH OF WHICH WERE APPROVED. ONE ELIMINATES THE DISTINCTION BETWEEN EXTRA-CONTINENTAL AND INTRA-CONTINENTAL ATTACK IN THE REFERENCE TO POSSIBLE COLLECTIVE ACTION BEFORE THE UN. THE OTHER ELIMINATES SPECIFIC MENTION OF CHAPTER VI AND VII OF THE UN CHARTER (WHICH DEALS WITH PEACEFUL SETTLEMENT OF DISPUTES), SUBSTITUTING "PERTINENT PROVISIONS" OF THE CHARTER. THE U.S. ABSTAINED ON THE FIRST AND SUPPORTED THE SECOND.

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8. THE GENERAL COMMITTEE THEN APPROVED ARTICLE 3, 19-0, WITH PERU AND PANAMA ABSTAINING. IT WAS AGREED THAT THE PRESENT ARTICLE 5 WOULD REMAIN SEPARATE RATHER THAN BE APPENDED TO ARTICLE 3 AS PERU HAD ORIGINALLY SUGGESTED.

9. AMBASSADOR MAILLIARD EXPLAINED THE U.S. VOTE. HE SAID THAT THE U.S. WOULD HAVE PREFERRED THE NICARAGUAN (ORIGINAL COSTA RICAN)

PROPOSAL, BUT IN THE SPIRIT OF HARMONY WE HAD SOUGHT TO PERFECT THE SPECIAL COMMITTEE TEXT ON THE UNDERSTANDING THAT IT WOULD GET MUCH BROADER BACKING FROM THE MEMBERS. HE NOTED THAT IT HAD THE SAME PRACTICAL EFFECT.

10. COMMENT: WE ARE PLEASED WITH THE OUTCOME ON THESE TWO KEY ARTICLES. DESPITE TEXTUAL DEPARTURES FROM THE EXISTING GREATY, SUBSTANTIVE INTEGRITY OF THESE ARTICLES HAS BEEN MAINTAINED. WE ALSO BELIEVE IT HIGHLY SIGNIFICANT THAT NEAR-UNANIMOUS VOTES WERE OBTAINED IN FAVOR OF THESE TEXTS. WE ARE PARTICULARLY PLEASED THAT MEXICO, WHICH HAS BEEN ONE OF THE CHIEF CRITICS OF THE TREATY IN THE SPECIAL COMMITTEE AND ELSEWHERE, WAS PERSUADED TO ACCEPT LANGUAGE WITH ESSENTIALLY THE SAME SUBSTANTIVE EFFECT AS THE PRESENT TREATY.

11. PLEASE PASS ALL OAS DIPLOMATIC POSTS.  
TODMAN

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## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** n/a  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 21 JUL 1975  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Authority:** GolinoFR  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
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**Document Unique ID:** 00  
**Drafter:** n/a  
**Enclosure:** n/a  
**Executive Order:** N/A  
**Errors:** N/A  
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**Locator:** TEXT ON-LINE, ON MICROFILM  
**Office:** ACTION L  
**Original Classification:** LIMITED OFFICIAL USE  
**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
**Page Count:** 3  
**Previous Channel Indicators:** n/a  
**Previous Classification:** LIMITED OFFICIAL USE  
**Previous Handling Restrictions:** n/a  
**Reference:** 75 SAN JOSE 3000, 75 (USDEL 1, 75 SAN JOSE 3003, 75 (USDEL 1  
**Review Action:** RELEASED, APPROVED  
**Review Authority:** GolinoFR  
**Review Comment:** n/a  
**Review Content Flags:**  
**Review Date:** 05 SEP 2003  
**Review Event:**  
**Review Exemptions:** n/a  
**Review History:** RELEASED <05 SEP 2003 by CunninFX>; APPROVED <25 NOV 2003 by GolinoFR>  
**Review Markings:**

Margaret P. Grafeld  
Declassified/Released  
US Department of State  
EO Systematic Review  
06 JUL 2006

**Review Media Identifier:**  
**Review Referrals:** n/a  
**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** SAN JOSE CONFERENCE: RIO TREATY - APPROVAL OF ARTICLES 3 AND 6  
**TAGS:** OCON, OAS  
**To:** STATE  
**Type:** TE  
**Markings:** Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 06 JUL 2006